

**STATE OF UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF WATER QUALITY**

**Authorization to Discharge Under the
Utah Pollutant Discharge Elimination System (UPDES)**

**General Permit for Discharges from Small Municipal Separate
Storm Sewer Systems (MS4s)**

This Permit is issued in compliance with the provisions of the Utah Water Quality Act, Title 19, Chapter 5, Utah Code Annotated 2004, as amended (the "Act") and the Federal Water Pollution Control Act (33 U.S.C. §§ 1251 et. seq., as amended to date), and the rules and Regulations made pursuant to those statutes.

This Permit authorizes storm water discharges to Waters of the State of Utah resulting from a Small Municipal Separate Storm Sewer System (Small MS4) as provided in Part 1.0 of this Permit. This authorization is conditioned upon an operator of a Small MS4 meeting the eligibility requirements in Part 1.2 of this Permit prior to filing a Notice of Intent ("NOI") to discharge under this General Permit. An operator of a Small MS4 is not covered by this General Permit if the operator submits an NOI but has not met these conditions.

This authorization is subject to the authority of the Utah Water Quality Board or the Executive Secretary of the Utah Water Quality Board to reopen this Permit (see Part 6.22 of Permit), or to require a discharger to obtain an individual permit (see Part 6.15 of this Permit). The issuance of a discharge permit authorization under this general Permit does not relieve Permittees of other duties and responsibilities under the Act or rules made under that Act. Significant terms used in this Permit are defined in Part 7.0 of this Permit.

This Permit shall become effective on _____ .

This Permit and the authorization to discharge shall expire at midnight, _____ except as described in Part 6.3 of this Permit.

Signed this _____ day of _____ 2009.

Walter L. Baker, P.E.
Executive Secretary
Utah Water Quality Board

**UPDES GENERAL PERMIT FOR DISCHARGES FROM
SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEMS (MS4s)**

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1.0 Coverage Under this Permit

1.1. Authority to Discharge

This General Permit authorizes the discharge, to Waters of the State of Utah, of storm water from a Small MS4 as that term is defined in R317-8-1.6(14) and Part 7.39. of this Permit. This authorization is subject to all of the terms and conditions of this Permit. This General Permit does not authorize discharges prohibited under Part 1.5 of this Permit.

1.2. Permit Area and Eligibility

- 1.2.1. This Permit covers all areas of the State of Utah except Indian Country (see Part 7.22. of this Permit for a definition of “Indian Country”).
 - 1.2.1.1. No operator of a Small MS4 described in 40 CFR 122.32 may discharge from that system without authorization from the Executive Secretary. (See Utah Administrative Code Section R317-8-3.9(1)(h)(1)(a), which sets forth the permitting requirement, and R317-8-1.10(13), which incorporates 40 CFR 122.32 by reference.) Authorization to discharge under the terms and conditions of this Permit is granted if:
 - 1.2.1.2. It applies to an operator of a Small MS4 within the state of Utah but not within Indian Country;
 - 1.2.1.3. The operator is not a “large” or “medium” MS4 as defined in 40 CFR 122.26(b)(4) or (7);
 - 1.2.1.4. The operator submits a Notice of Intent (NOI) in accordance with Part 2 of this Permit;
 - 1.2.1.5. The MS4 is located fully or partially within an urbanized area as determined by the latest Decennial Census by the Bureau of Census;
 - 1.2.1.6. The operator is ordered by the Executive Secretary to obtain coverage under this Permit, as provided in the UPDES rules, R317-8.
 - 1.2.2. The following are types of authorized discharges:
 - 1.2.2.1. *Storm water discharges.* This Permit authorizes storm water discharges to waters of the state from the Small MS4s identified in 1.2.1, except as excluded in Part 1.4.
 - 1.2.2.2. *Non-storm water discharges.* The following non-storm water discharges are exempt from the need for UPDES Permit coverage unless otherwise ordered by the Executive Secretary:
 - Water line flushing
 - Landscape irrigation
 - Diverted stream flows

- Rising ground waters
- Uncontaminated ground water infiltration
- Uncontaminated pumped ground water
- Discharges from potable water sources
- Foundation drains
- Air conditioning condensate
- Irrigation water
- Springs
- Water from crawl space pumps
- Footing drains
- Lawn watering runoff
- Individual residential car washing
- Flows from riparian habitats and wetlands
- Dechlorinated swimming pool discharges
- Residual street wash water
- Dechlorinated water reservoir discharges
- Discharges or flows from fire fighting activity

1.3. Local Agency Authority

This Permit does not pre-empt or supersede the authority of local agencies to prohibit, restrict, or control discharges to storm drain systems or other water courses within their jurisdiction.

1.4. Limitations on Coverage

This Permit does not authorize:

- 1.4.1. Discharges that are mixed with sources of non-storm water unless such non-storm water discharges are in compliance with a separate UPDES Permit or are determined not to be a substantial contributor of pollutants to Waters of the State.
- 1.4.2. Storm water discharges associated with industrial activity as defined in *Utah Administrative Code (UAC) R317-8-3.9(6)(c)*.
- 1.4.3. Storm water discharges associated with construction activity as defined in *UAC R317-8-3.9(6)(d)(10)* and *R317-8-3.9(6)(d)(11)*.
- 1.4.4. Storm water discharges currently covered under another Permit.
- 1.4.5. Discharges that would cause or contribute to in-stream exceedances of water quality standards.

- 1.4.6. Discharges of any pollutant into any Waters of the State for which a Total Maximum Daily Load (TMDL) has been approved by EPA unless the discharge is consistent with the TMDL. This consistency determination applies at the time a Notice of Intent is submitted. If conditions change after coverage is issued, the coverage may remain active provided the conditions and requirements of Part 3.1. of this Permit are complied with.
- 1.4.7. Discharges or discharge-related activities that are likely to jeopardize the continued existence of any species that are listed as endangered or threatened under the Endangered Species Act (ESA) or result in the adverse modification or destruction of habitat that is designated as critical under the ESA (See Part 3.2).
- 1.4.8. Discharge from a Small MS4 if the operator has been ordered by the Executive Secretary, as provided in Part 6.15 that it may no longer be covered under this General Permit, and the period established by the Executive Secretary for applying for a UPDES permit has passed.

2.0 Notice of Intent and Storm Water Management Program Requirements

- 2.1.** The requirements of this Part apply only to Permittees **not** covered under the previous General Permit for Storm Water Discharges from Small Municipal Separate Storm Sewer Systems (MS4 General Permit UTR 090000), i.e. **New Applicants**. Renewal Permittees are not required to meet the requirements of this Part, and instead must follow the requirements of Part 2.3.

2.1.2. New applicants must meet the following application requirements. The Notice of Intent (NOI) must include submittal of the Storm Water Management Program (SWMP).

2.1.3. Within 180 days of notification from the Executive Secretary, the operator of the MS4 shall submit a NOI form as provided by the Division at <http://www.waterquality.utah.gov/UPDES/stormwatermun.htm>. (The Executive Secretary retains the right to grant permission for a later submission date upon good cause shown). One original completed NOI shall be submitted, by mail or hand delivery to:

Attention: UPDES IES
Department of Environmental Quality
Division of Water Quality
288 North 1460 West
PO Box 144870
Salt Lake City, UT 84114-4870

2.1.4. Late submittal of an NOI is prohibited (unless permission has been granted by the Executive Secretary). If a late NOI is submitted, authorization is only for discharges that occur after Permit coverage is granted. The Executive Secretary reserves the right to take appropriate enforcement actions for any unpermitted discharges.

2.1.5. Where application is made by a new applicant that has assumed operational control of an MS4 for which coverage under this Permit was previously held by a separate entity, the Division may determine that the new applicant shall comply with the Permit requirements in this Permit, as directed for Renewal Permittees. Notification shall be made by the Executive Secretary of this requirement in writing to the New Applicant prior to issuance of Permit coverage

2.1.6. Implementation of the Permittee's SWMP must include the six minimum control areas, including Measurable Goals, described in Part 4.2. Measurable Goals for each of the program areas must include, as appropriate, the year by which the Permittee will undertake required actions, including interim milestones and the frequency of the action if applicable.

- 2.1.7. Implementation of the Permittee's SWMP as described in the Permittee's application is required to begin within 30 days after the completed application is submitted. The Permittee must fully develop and implement the SWMP as discussed in Part 4.0 of the Permit by the end of the Permit term unless a more restrictive timeframe is indicated. The program areas must be developed and implemented at a relatively steady rate over the initial Permit term, to the Maximum Extent Practicable (MEP).
- 2.1.8. If an Operator is designated by the Executive Secretary as requiring permit coverage later than one year after the effective date of this General Permit, the Executive Secretary may approve alternative deadlines that would allow the Permittee to have its program areas implemented.
- 2.2. Contents of the Notice of Intent**
- The Notice of Intent requires, at a minimum, the following information:
- 2.2.1. Name, address, and telephone number of the principal executive officer, ranking elected official or other duly authorized employee in charge of municipal resources used for implementation of the SWMP;
- 2.2.2. Name (s)/ identification of Waters of the State as defined by UAC R317-1-1.32 that receive discharges from the Permittee's MS4;
- 2.2.3. Name of the person responsible for overseeing implementation and coordination of the SWMP;
- 2.2.4. Summary description of the overall water quality concerns, priorities, and measurable goals specific to the Permittee that were considered in the development of the SWMP Plan;
- 2.2.5. The SWMP Plan shall consist of, at a minimum, a description of the program elements that will be implemented (or already exist) for each of the SWMP minimum control measures. The plan must be detailed enough for the Division to determine the Permittee's general strategy for complying with the required items in each of the six minimum control measures in the SWMP Plan (see Part 4.2 of this Permit);
- 2.2.6. Information on the chosen Best Management Practices (BMPs) and the measurable goals for each of the storm water minimum control measures in Part 4.2 of this Permit and, as appropriate, the timeframe by which the Permittee will achieve required actions, including interim milestones;
- 2.2.7. Permittees which are applying as Co-Permittees shall each submit an NOI and individual SWMP which will clearly identify the areas of the MS4 for which each of the Co-Permittees are responsible. Permittees which are relying on another entity (ies) to satisfy one or more of their Permit obligations shall include with the NOI, a summary of the Permit obligations that will be carried out by the other entity (ies). During the term of the Permit, Permittees may terminate or amend shared responsibility

arrangements by notifying the Executive Secretary, provided this does not alter implementation deadlines.

- 2.2.8. Certification and signature requirements in accordance with Part 6.8.

2.3 Storm Water Management Program Plan Description for Renewal Permittees

- 2.3.1. The requirements of this part apply only to **Renewal Permittees** that were previously covered under the last MS4 general Permit (UTR09000). Renewal Permittees New applicants are not required to meet the requirements of this Part and instead must follow the requirements of Part 2.0.
- 2.3.2. Renewal Permittees must submit a **revised SWMP Plan** to the Division within 90 days of the effective date of this Permit, which includes at a minimum, the following information:
- 2.3.2.1. Permit number;
- 2.3.2.2. MS4 location description and map;
- 2.3.2.3. Information regarding the overall water quality concerns, priorities, and measurable goals specific to the Permittee that were considered in the development and/or revisions to the SWMP Plan;
- 2.3.3. A description of the program elements that will be implemented (or are already being implemented) in each of the six minimum control measures (see Part 4.0);
- 2.3.3.1. A description of any modifications to ordinances or long-term/ongoing processes implemented in accordance with the previous MS4 general Permit for each of the six minimum control measures;
- 2.3.3.2. A description of how the Permittee intends to meet the new or clarified Permit requirements in Part 4.0 by either referencing existing program areas that already meet the Permit requirements or a description and relevant measurable goals that include, as appropriate, the year by which the Permittee will achieve required actions, including interim milestones.
- 2.3.3.3. Indicate the joint submittal (s) of Co-Permittees (if applicable) and the associated responsibility (ies) in meeting requirements of the SWMP.
- 2.3.3.4. Certification and signature requirements in accordance with Part 6.8.
- 2.3.4. The revised SWMP Plan must be detailed enough for the Division to determine the Permittee's strategy for complying with the required items in each of the six minimum control measures contained within the SWMP (See Part 4.2).

3.0. Special Conditions

3.1. Discharges to Water Quality Impaired Waters

3.1.1. Applicability: Permittees must:

- 3.1.1.1. Determine whether storm water discharge from any part of the MS4 contributes to a 303(d) listed (i.e., impaired) waterbody. Water quality impaired waters means any segment of surface waters that has been identified by the Division as failing to support classified uses. If the Permittee has discharges meeting these criteria, the Permittee must comply with Part 3.1.2. below and if no such discharges exist, the remainder of this Part 3.1 does not apply.
- 3.1.1.2. If the Permittee has “303(d)” discharges described above, the Permittee must also determine whether a Total Maximum Daily Load (TMDL) has been developed by the Division and approved by EPA for the listed waterbody. If there is an approved TMDL, the Permittee must comply with Part 3.1.2. below and if no TMDL has been approved, Part 3.1.2. does not apply until a TMDL has been approved.
- 3.1.2. Water Quality Controls for Discharges to Impaired Waterbodies. If the Permittee discharges to an impaired waterbody, the Permittee must submit a SWMP to the Division that includes a description of how the Permittee will control the discharge of the pollutants of concern. This description must identify the measures and BMPs that will collectively control the discharge of the pollutants of concern. The measures should be presented in the order of priority with respect to controlling the pollutants of concern.
- 3.1.3. Where a discharge is already authorized under this Permit and is later determined to cause or have the reasonable potential to cause or contribute to the violation of an applicable water quality standard, the Division will notify the Permittee of such violation(s). The Permittee must take all necessary actions to ensure future discharges do not cause or contribute to the violation of a water quality standard and document these actions as required by the Division. If violations remain or re-occur, coverage under this Permit may be terminated by the Division and an alternative general Permit or individual Permit may be issued. Compliance with this requirement does not preclude any enforcement activity as provided by the Utah Water Quality Act for the underlying violation

3.2. Threatened or Endangered Species and Historic Properties

This Permit does not relieve the Permittee from compliance with Federal or State laws pertaining to threatened or endangered species or historic properties. Where applicable, compliance efforts to these laws shall be reflected in the SWMP.

3.3. Co-Permittees

- 3.3.1. Two or more operators of interrelated or neighboring Small MS4s may apply as Co-Permittees.
- 3.3.2. In order to be permitted as Co-Permittees, the MS4(s) must each submit an NOI complete with BMP measurable goals and implementation milestones. Each description of the MS4(s) Storm Water Management Program Plan (s) must clearly describe which Permittees are responsible for implementing each of the control measures.
- 3.3.3. Each Co-Permittee is individually liable for:
 - 3.3.3.1. Permit compliance for discharges from portions of the MS4 where it is the operator and for areas within its legal jurisdiction;
 - 3.3.3.2. Ensuring that the six minimum control measures described in Part 4.2 are implemented for portions of the MS4 where it is the operator and in areas within its legal jurisdiction; and
 - 3.3.3.3. If any Permit conditions are established for specific portions of the MS4, Co-Permittees need only comply with the Permit conditions relating to those portions of the MS4 for which they are the operator.
- 3.3.4. Each Co-Permittee is jointly liable for compliance with annual reporting requirements listed in Part 5.5, except that a Co-Permittee is individually liable for any parts of the annual report that relate exclusively to portions of the MS4 where it is the operator.
- 3.3.5. Specific Co-Permittees are jointly liable for Permit compliance on portions of the MS4 as follows:
 - 3.3.5.1. Where operational or storm water management program implementation authority over portions of the MS4 has been transferred from one Co-Permittee to another in accordance with legally binding interagency agreements, both the owner and the operator may be jointly liable for Permit compliance on those portions of the MS4; and
 - 3.3.5.2. Where one or more Co-Permittees jointly own or operate a portion of the MS4, each owner/operator is jointly liable for compliance with Permit conditions on the shared portion of the MS4.

4.0 Storm Water Management Program

4.1. Requirements

- 4.1.1. All Permittees must develop, implement, and enforce a SWMP designed to reduce the discharge of pollutants from the MS4 to the maximum extent practicable (MEP), to protect water quality, and to satisfy the appropriate water quality requirements of the *Utah Water Quality Act*. The SWMP must include the six minimum control measures described in Part 4.2 of this Permit. Implementation of Best Management Practices (BMPs) consistent with the provisions of the SWMP and the other requirements in this Permit constitutes compliance with the standard of reducing pollutants to the MEP.
- 4.1.1.1. The SWMP shall be developed and implemented in accordance with the schedules contained in Part 4.0. of this Permit.
- 4.1.2. Within 90 days after the coverage from this Permit is granted, each Permittee shall have an ongoing process for gathering, maintaining, and using information to conduct planning, set priorities, track the development and implementation of the SWMP, evaluate Permit compliance/non-compliance, and evaluate the effectiveness of the SWMP implementation.
- 4.1.2.1. Each Permittee shall track the number of inspections performed, official enforcement actions taken, and types of public education activities implemented as required for each SWMP component. This information shall be provided to the Division upon request and used by the Division to determine compliance with this Permit.
- 4.1.2.2. Each Permittee shall track or estimate the cost of development and implementation of each component of the SWMP. This information shall be provided to the Division upon request.
- 4.1.3. The SWMPs shall include BMPs that the Permittee or another entity will implement for each of the storm water minimum control measures.
- 4.1.3.1. The measurable goals for each of the BMPs shall include, as appropriate, the months and years in which the Permittee will undertake required actions, including interim milestones and the frequency of the actions.
- 4.1.3.2. The SWMP shall indicate the person or persons responsible for implementing or coordinating the BMPs contained within the SWMP.

4.2. Minimum Control Measures

Permittees covered under the previous General Permit for Storm Water Discharges from Small Municipal Separate Storm Sewer Systems (MS4 General Permit UTR090000) i.e. **Renewal Permittees**, should have completed all of the following six minimum control measures as required in the previous permit term. Renewal Permittees must continue to

implement their Storm Water Management Programs (SWMPs) as described in their application and submittals provided in accordance with the previous MS4 general permit, taking into account any clarifications or modifications described in Part 4.2. of this permit.

The six minimum control measures that must be included in the storm water management program are:

4.2.1. *Public Education and Outreach on Storm Water Impacts*

The Permittee must implement a public education and outreach program to promote behavior change by the public to reduce water quality impacts associated with pollutants in storm water runoff and illicit discharges. Outreach and educational efforts shall include a multimedia approach and shall be targeted and presented to specific audiences for increased effectiveness. The minimum performance measures which should be based on the land uses and target audiences found within the community include:

- 4.2.1.1. Target specific pollutants and pollutant sources determined by the Permittee to be impacting, or have the potential to impact, the beneficial uses of receiving water. This includes providing information and outreach activities which describe the potential impacts from storm water discharges; methods for avoiding, minimizing, reducing and /or eliminating the adverse impacts of storm water discharges; and the actions individuals can take to improve water quality, including encouraging participation in local environmental stewardship activities, based on the land uses and target audiences found within the community;
- 4.2.1.2. Inform businesses and the general public of the municipality's prohibitions against and the water quality impacts associated with illegal discharges and improper disposal of waste; and,
- 4.2.1.3. Provide information for engineers, construction contractors, developers, development review staff, and land use planners about the development of storm water pollution prevention plans (SWPPPs) and BMPs for reducing adverse impacts from storm water runoff from development sites.
- 4.2.1.4. Provide and document training given to engineers, developers, development and plan review staff, land use planners, and other parties as applicable to learn about Low Impact Development (LID) practices, green infrastructure practices, and to communicate the specific requirements for post-construction control and the associated Best Management Practices (BMPs) chosen within the SWMP.

4.2.2. *Public Involvement/Participation*

The Permittee must implement a program that complies with applicable state and local public notice requirements. The SWMP shall include ongoing opportunities for public involvement and participation such as advisory panels, public hearings, watershed committees, stewardship programs, environmental activities, other volunteer opportunities, or other similar

activities. The Permittee should involve and prioritize all potentially affected stakeholder groups, which include but is not limited to, commercial and industrial businesses, trade associations, environmental groups, homeowners associations, and education organizations. The minimum performance measures are:

- 4.2.2.1. Permittees shall adopt a program or policy directive to create opportunities for the public to provide input during the decision making processes involving the development, implementation and update of the SWMP, including development and adoption of all required ordinances and regulatory mechanisms.
- 4.2.2.2. Renewal Permittees shall make the revised SWMP available to the public to review and provide input by three months from the effective date of this Permit.
- 4.2.2.3. Permittees shall make the latest updated version of the SWMP available to the public for review and input. A current version of the SWMP shall remain available for public review and input for the life of the permit. If the Permittee maintains a website, the latest version of the SWMP shall be posted on the website to allow the public to review and provide input.
- 4.2.2.4. Notice of all SWMP-related public hearings should be published in a community publication or newspaper of general circulation to provide opportunities for public involvement.

4.2.3. *Illicit Discharge Detection and Elimination*

All Permittees shall develop, implement and enforce a program to detect and eliminate illicit discharges according to the minimum performance measures listed below within 18 months of receiving coverage under this Permit. The minimum performance measures are:

- 4.2.3.1. Maintain a current storm sewer system map of the MS4, showing the location of all municipal storm sewer outfalls and the names and location of all state waters that receive discharges from those outfalls.
- 4.2.3.2. Effectively prohibit, through ordinance or other regulatory mechanism, illicit discharges into the storm sewer system, and implement appropriate enforcement procedures and actions. The Permittee should have a variety of enforcement options in order to apply escalating enforcement procedures as necessary for the severity of violation and/or the recalcitrance of the violator.
- 4.2.3.3. Develop, implement, and document a plan to detect and address non-storm water discharges to the MS4, including spills, illicit connections, sanitary sewer overflows and illegal dumping. The plan shall include:
 - 4.2.3.3.1 Procedures for locating and listing priority areas likely to have illicit discharges, including at a minimum: evaluating land uses and associated business/industrial activities; areas where complaints have been registered in

the past; and areas with storage of large quantities of materials that could result in spills.

- 4.2.3.3.2 Field assessment activities, including visual inspection of outfalls or facilities serving priority areas identified in Part 4.2.3.3.1 (dry weather screening) and for the purposes of verifying outfall locations and detecting illicit discharges. Compliance with this provision shall be achieved by: prioritizing receiving waters for visual inspection to identify previously unknown outfalls and field assessing at least 20 percent of these priority areas to verify outfall locations and detect illicit discharges within one year of receiving coverage from this Permit, and field assessing an additional 20 percent of the identified high priority water bodies or other high priority area each year thereafter.
- 4.2.3.4. Develop and implement procedures for characterizing the nature of, and the potential public or environmental threat posed by, any illicit discharges found by or reported to the Permittee. Procedures shall include detailed instructions for evaluating whether the discharge shall be immediately contained and steps to be taken for containment of the discharge. Compliance with this provision will be achieved by: investigating (or referring) problems and violations determined to be emergencies or otherwise judged by the Permittee's staff or other qualified personnel to be urgent or severe.
- 4.2.3.5. Develop and implement procedures for tracing the source of an illicit discharge; including visual inspections, and when necessary, opening manholes, using mobile cameras, using field tests of selected chemical parameters as indicators of discharge sources, collecting and analyzing water samples for the purpose of determining sanctions or penalties, and/or other detailed inspection procedures.
- 4.2.3.6. Develop and implement procedures for ceasing the illicit discharge, including notification of appropriate authorities; notification of property owner; technical assistance for removing the source of the discharge or otherwise eliminating the discharge; follow-up inspections; and escalating enforcement and legal actions if the discharge is not eliminated.
- 4.2.3.7. Permittees shall inform public employees, businesses, and the general public of hazards associated with illegal discharges and improper disposal of waste.
- 4.2.3.8. Permittees shall promote and provide services for the collection of household hazardous waste.
- 4.2.3.9. Permittees shall publicly list and publicize a hotline or other local telephone number for public reporting of spills and other illicit discharges. A record shall be kept of all calls received, all follow-up actions taken, and any feedback received from public education efforts.
- 4.2.3.10. Permittees shall adopt and implement procedures for program evaluation and assessment which includes maintaining a formal georeferenced database for mapping, tracking of the number and type of spills or illicit discharges identified; and inspections conducted.

- 4.2.3.11. Permittees shall provide adequate training to all staff responsible for identification, investigation, termination, cleanup, and reporting of illicit discharges including spills, improper disposal, and illicit connections.
- 4.2.3.12. Permittees shall provide training to all municipal field staff that as part of their normal job responsibilities might come into contact with or otherwise observe an illicit discharge or illicit connection to the MS4. Permittees shall also train office personnel who might receive initial reports of illicit discharges. Training shall include how to identify a spill, an improper disposal, or an illicit connection to the MS4 and proper procedures for reporting the illicit discharge.
- 4.2.3.13. The Division reserves the right to request documentation or further study of a particular non-storm water discharge of concern, to require a reasonable basis for allowing the non-storm water discharge and excluding the discharge from the Permittee's program, and to require inclusion of the discharge in the Permittee's program, if water quality concerns can not otherwise be reasonably satisfied.

4.2.4. *Construction site storm water runoff control*

All Permittees shall develop, implement and enforce a program to reduce pollutants in any storm water runoff to the MS4 from construction activities according to the minimum performance measures listed below within 18 months of receiving coverage under this Permit. The minimum performance measures are:

- 4.2.4.1. Develop and adopt an ordinance or other regulatory mechanism to require erosion and sediment controls. The ordinance or other regulatory mechanism shall include sanctions to ensure compliance. The ordinance or other regulatory mechanism shall apply, at a minimum, to construction projects disturbing greater than or equal to one acre and to construction projects of less than one acre that are part of a common plan of development or sale. Existing local requirements to apply storm water controls at smaller sites shall be retained.
 - 4.2.4.1.1 The ordinance or other regulatory mechanism shall, at a minimum, require construction operators to prepare a Storm Water Pollution Prevention Plan (SWPPP) and apply BMPs as necessary to protect water quality, reduce the discharge of pollutants to the MEP, and control waste such as discarded building materials, concrete truck washout, chemicals, litter and sanitary waste at the construction site that may cause adverse impacts to water quality.
- 4.2.4.2. Develop an enforcement strategy and implement the enforcement provisions of the ordinance or other regulatory mechanism which shall include:
 - 4.2.4.2.1. Documented procedures that include specific processes and sanctions to minimize the occurrence of, and obtain compliance from violators which shall include appropriate, escalating enforcement procedures and actions.

- 4.2.4.2.2. Documentation and tracking of all enforcement actions.
- 4.2.4.3. The ordinance shall include a provision for access by qualified personnel to inspect construction storm water BMPs on private properties that discharge to the MS4.
- 4.2.4.4. Adopt and implement procedures for site plan review which incorporate consideration of potential water quality impacts. Prior to construction, Permittees shall:
 - 4.2.4.4.1 Review construction Storm Water Pollution Prevention Plans (SWPPPs) and keep records for, at a minimum, all construction sites that disturb one acre or more, or are less than one acre and are part of a common plan of development to ensure plans are complete and in compliance with state and local regulations. Permittees shall keep records of these projects for five years or until construction is completed, whichever is longer.
 - 4.2.4.4.2 Permittees shall provide adequate training for all staff involved in Permitting, planning, and review. The training records to be kept include dates, activities or course descriptions, and names and positions of staff in attendance.
- 4.2.4.5. All Permittees shall adopt and implement procedures for site inspection and enforcement of construction storm water pollution control measures. The construction site storm water runoff control program must provide:
 - 4.2.4.5.1 Training for staff in the fundamentals of erosion prevention and sediment control and in how to review SWPPPs.
 - 4.2.4.5.2 Identification of priority construction activities, including at a minimum those construction activities discharging directly into or immediately upstream of waters that the state recognizes as impaired (for sediment) or high quality;
 - 4.2.4.5.3 Pre-construction meetings with at a minimum, construction site operators of priority construction activities; and
 - 4.2.4.5.4 Inspections by the MS4 of priority construction sites at least once per month.
 - 4.2.4.5.5 Inspections of all new construction sites that disturb one acre or more, or are part of a common plan of development or sale at least once by qualified personnel.
 - 4.2.4.5.6 All Permittees shall adopt a procedure for keeping records of inspections and enforcement actions by staff, including inspection reports, verbal warnings, stop work orders, warning letters, notices of violations, and other enforcement records.

4.2.5. *Post-Construction Storm Water Management in New Development and Redevelopment*

All Permittees shall develop, implement and enforce a program to address post-construction storm water runoff to the MS4 from new development and redevelopment projects according to the minimum performance measures listed below within 18 months of receiving coverage under this Permit. The minimum performance measures are:

- 4.2.5.1. Develop and adopt an ordinance or other regulatory mechanism that requires post-construction storm water controls at new development and redevelopment projects. The ordinance or other regulatory mechanism shall apply, at a minimum, to new development and redevelopment sites that discharge to the MS4 and that disturb one acre or more or are less than one acre and are part of a common plan of development or sale. Existing local requirements to apply storm water controls at smaller sites shall be retained. The ordinance or other regulatory mechanism shall require BMP selection, design, installation, operation and maintenance standards necessary to protect water quality and reduce the discharge of pollutants to the MEP.
- 4.2.5.2. Develop an enforcement strategy and implement the enforcement provisions of the ordinance or other regulatory mechanism. Procedures for enforcement of BMPs include:
 - 4.2.5.2.1 Procedures that include specific processes and sanctions to minimize the occurrence of, and obtain compliance from, chronic and recalcitrant violators which shall include appropriate, escalating enforcement procedures and actions.
 - 4.2.5.2.2 Documentation on how the requirements of the ordinance or other regulatory mechanism will protect water quality and reduce the discharge of pollutants to the MEP. Documentation shall include:
 - How storm water BMPs were selected;
 - The pollutant removal expected from the selected BMPs; and
 - The technical basis which supports the performance claims for the selected BMPs.
- 4.2.5.3. All Permittees shall adopt a policy of encouraging project design to maintain natural drainages to the MEP, including reducing the total amount of impervious surfaces created by the project.
 - 4.2.5.3.1 Permittees should consider including provisions to allow non-structural preventive actions and source reduction approaches such as Low Impact Development (LID) techniques, measures to minimize the creation of impervious surfaces and measures to minimize the disturbance of native soils and vegetation. Provisions should take into account site conditions, access and long term maintenance.
 - 4.2.5.3.2 All Permittees shall adopt requirements for project designers and property owners to implement appropriate runoff treatment, flow control, and source

control BMPs considering the proposed land use at the site to minimize adverse impacts to water quality.

- 4.2.5.3.3 Each Permittee shall define a specific hydrologic method or methods for calculating runoff volumes and flow rates to ensure consistent sizing of structural BMPs in their jurisdiction and to facilitate plan review. Permittees may allow other unique or complex methodologies.
- 4.2.5.4. All Permittees shall adopt and implement procedures for site plan review which incorporate consideration of water quality impacts. Prior to construction, Permittees shall:
 - 4.2.5.4.1 Review storm water site plans for, at a minimum, all new development and redevelopment sites that disturb one acre or more, or are less than one acre and are part of a common plan of development to ensure that the plans include storm water pollution prevention measures that meet the requirements in Part 4.2.5.4.
 - 4.2.5.4.2 Maintain records of all projects disturbing more than one acre, and all projects of any size that are part of a common plan of development or sale that is greater than one acre that are approved after the effective date of this Permit. Permittees shall keep records of these projects for five years or until construction is completed, whichever is longer.
 - 4.2.5.4.3 The site plan review shall be performed by qualified personnel and shall include review of construction storm water site plans and pollution prevention plans.
 - 4.2.5.4.4 Permittees shall provide adequate training for all staff involved in permitting, planning, and review. The training records to be kept include dates, activities or course descriptions, and names and positions of staff in attendance.
 - 4.2.5.4.5 Permittees shall provide developers and contractors with preferred design specifications to more effectively treat storm water for different development types such as industrial parks, commercial strip malls, retail gasoline outlets, restaurants, parking lots, automotive service facilities, street and road construction, and projects located in, adjacent to, or discharging to environmentally sensitive areas.
 - 4.2.5.4.6 Permittees shall keep copies of information that is provided to design professionals; and if information is distributed to a large number of design professionals at once, the dates of the mailings and lists of recipients.
- 4.2.5.5. All Permittees shall adopt and implement procedures for site inspection and enforcement of post-construction storm water control measures.
 - 4.2.5.5.1 All Permittees shall adopt a procedure for keeping records of inspections and enforcement actions by staff, including inspection reports, verbal warnings, stop work orders, warning letters, notices of violations, and other enforcement records.

- 4.2.5.5.2 Structural BMPs shall be inspected at least once during installation by qualified personnel.
- 4.2.5.5.3 Structural BMPs shall be inspected at least once every five years after final installation, or more frequently as determined by the Permittee to be necessary to prevent adverse water quality impacts, to ensure that adequate maintenance is being performed. The inspection shall be performed by qualified personnel.
- 4.2.5.5.4 If a BMP is not inspected, the Permittee is not in violation of this provision unless a violation of water quality standards occurs due to lack of operation and maintenance of the facility.
- 4.2.5.5.5 If a site is inspected and deficiencies are identified, the Permittee is not in violation of this provision, provided the Permittee requires and confirms that necessary operation, maintenance and/or repair to correct the problem is performed as soon as practicable.
- 4.2.5.5.6 Permittees shall provide adequate training for all staff involved in Permitting, planning, review, inspection, and enforcement to carry out the provisions of this SWMP component. Training records to be kept include dates, activities or course descriptions, and names and positions of staff in attendance.
- 4.2.5.6. All Permittees shall adopt requirements to ensure adequate ongoing long-term operation and maintenance of approved BMPs.
- 4.2.5.6.1 The ordinance or other regulatory mechanism shall include provisions for both construction-phase and post-construction access for Permittees to inspect storm water BMPs on private properties that discharge to the MS4. If deemed necessary for post-construction access, the ordinance or other regulatory mechanism may, in lieu of requiring that continued access be granted to the Permittee's staff or qualified personnel, instead require private property owners to provide annual certification by a qualified third party that adequate maintenance has been performed and the facilities are operating as designed to protect water quality.
- 4.2.5.6.2 All Permittees shall document and maintain records of the location, ownership and maintenance specifications for all newly installed storm water quality features.
- 4.2.5.7. Permittees shall keep records of all projects disturbing more than one acre that are approved on or after the effective date of the ordinance or other regulatory mechanism; and all projects of any size that are part of a common plan of development or sale that is greater than one acre and are approved after the effective date of this Permit for five years after the effective date of this permit.
- 4.2.5.7.1 Permittees shall keep project records for five years or until construction is completed, whichever is longer.

4.2.6. Pollution Prevention and Good Housekeeping for Municipal Operations

All Permittees shall develop and implement Storm Water Pollution Prevention Plans for Municipal Operations which include a training component that has the ultimate goal of preventing or reducing pollutant runoff from municipal operations. The minimum performance measures are:

- 4.2.6.1. All Permittees shall develop and implement a Storm Water Pollution Prevention Plan (SWPPP) or equivalent plan for municipal activities. The plan shall include BMPs that, when applied to the municipal activity or facility will protect water quality and reduce the discharge of pollutants to the MEP. Low impact development (LID) techniques should be considered for all new and redeveloped municipal facilities. Water conservation measures should be considered for all landscaped area, parks and open spaces. The SWPPP shall include appropriate pollution prevention and good housekeeping procedures for all of the following types of facilities and/or activities listed below:
 - 4.2.6.1.1 Storm water collection and conveyance system including catch basins, storm water conveyance pipes, open channels, culverts, structural storm water controls, and structural runoff treatment and/or flow control facilities. The SWPPP shall address, but is not limited to: regular inspections, cleaning, proper disposal of waste removed from the system, and record keeping. Permittees shall implement catch basin cleaning, storm water system maintenance, scheduled structural BMP inspections and maintenance, and pollution prevention/good housekeeping practices.
 - 4.2.6.1.2 Roads, highways, and parking lots. The SWPPP shall address, but is not limited to: deicing, anti-icing, and snow removal practices; snow disposal areas; material (e.g. salt, sand, or other chemical) storage areas; and all-season BMPs to reduce road and parking lot debris and other pollutants from entering the MS4. Permittees shall implement all pollution prevention/good housekeeping practices established in the SWPPP for all roads, highways, and parking lots with more than 5,000 square feet of pollutant generating impervious surface that are owned, operated, or maintained by the Permittee.
 - 4.2.6.1.3 Vehicle fleets. The SWPPP shall address, but is not limited to: storage, washing, and maintenance of municipal vehicle fleets. Permittees shall conduct all vehicle and equipment washing and maintenance in a self-contained covered building or in designated wash and/or maintenance areas operated to separate wash water from storm water.
 - 4.2.6.1.4 Municipal buildings. The SWPPP shall address, but is not limited to: cleaning, washing, painting and other maintenance activities. Permittees shall implement all pollution prevention/good housekeeping practices established in the SWPPP for buildings owned, operated, or maintained by the Permittee.
 - 4.2.6.1.5 Parks and open space. The SWPPP shall address, but is not limited to: proper application of fertilizer, pesticides, and herbicides; sediment and erosion control; BMPs for landscape maintenance and vegetation disposal; trash management; and BMPs for building exterior cleaning and maintenance.

Permittees shall implement park and open space maintenance pollution prevention/good housekeeping practices at all park areas and other open spaces owned or operated by the Permittee.

- 4.2.6.1.6 Construction Projects. Public construction projects shall comply with the requirements applied to private projects. All construction projects owned or operated by the Permittee that are required to have an UPDES Permit shall be covered under the General UPDES Permit for Storm Water Discharges Associated with Construction Activities. All public projects approved after the effective date of this Permit shall include construction and post-construction controls selected and implemented pursuant to the requirements in Parts 4.2.4. and 4.2.5.
- 4.2.6.1.7 Material storage areas, heavy equipment storage areas and maintenance areas. Permittees shall develop and implement a Storm Water Pollution Prevention Plan to protect water quality at each of these facilities owned or operated by the Permittee and not covered under the General UPDES Permit for Storm Water Discharges Associated with Industrial Activities.
- 4.2.6.1.8 Flood management projects. Permittees shall implement provisions to assess water quality impacts in the design of all new flood management projects that are associated with the MS4 or that discharge to the MS4, including considering use of controls that minimize impacts to site hydrology and still meet project objectives. Existing flood management projects that are associated with the MS4 or that discharge to the MS4 shall be reviewed and evaluated to determine whether changes or additions should be made to improve water quality.
- 4.2.6.1.9. Other facilities including but not limited to waste transfer stations, salt/sand storage locations, and snow removal stockpile/disposal locations that would reasonably be expected to discharge contaminated runoff. Permittees shall identify these facilities, include BMPs to protect water quality from discharges from these sites in the SWPPP, and implement the BMPs.
- 4.2.6.2. The SWPPP shall include a schedule of inspections.
 - 4.2.6.2.1 A minimum of 95% of all known storm water treatment and flow control facilities owned, operated or maintained by the Permittee shall be inspected at least twice: once no later than three years from the effective date of this Permit and again before the expiration date of this Permit.
 - 4.2.6.2.2 Spot checks for potentially damaged storm water treatment and flow control facilities will be conducted after major storm events (greater than 10-year 24-hour storm events.)
 - 4.2.6.2.3 Any needed repair or maintenance shall be performed as soon as practicable pursuant to the finding of a regular inspection or spot check.
 - 4.2.6.2.4 The SWPPP shall identify the department (and where appropriate, the specific staff) responsible for performing each activity.

- 4.2.6.3. Permittees shall provide training for all employees who have primary construction, operation, or maintenance job functions that are likely to impact storm water quality. The Permittee shall identify target employees to participate in the training sessions. Training shall address the importance of protecting water quality, the requirements of this Permit, operation and maintenance requirements, inspection procedures, ways to perform their job activities to prevent or minimize impacts to water quality, SWPPPs for the various municipal facilities and procedures for reporting water quality concerns, including potential illicit discharges. Follow-up training shall be provided as needed to address changes in procedures, methods or staffing.

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4.3. Sharing Responsibility

- 4.3.1. Implementation of one or more of the six minimum measures may be shared with another entity, or the entity may fully take over the measure. A permittee may rely on another entity only if:
- 4.3.2. The other entity, in fact, implements the control measure;
- 4.3.3. The particular control measure, or component of that measure, is at least as stringent as the corresponding Permit requirement; and
- 4.3.4. The other entity agrees to implement the control measure through a written agreement. This obligation must be maintained as part of the description given in the Permittee's SWMP. If the other entity agrees to report on the minimum control measure, the Permittee must supply the other entity with the reporting requirements contained in Part 5.5. of this Permit. If the other entity fails to implement the control measure, then the Permittee remains liable for any discharges due to that failure to implement.

4.4. Reviewing and Updating Storm Water Management Programs

- 4.4.1. Storm Water Management Program Review: All Permittees must conduct, at a minimum, an annual review of the SWMP in conjunction with preparation of the annual report required in Part 5.5.
- 4.4.2. *Storm Water Management Program Update:* A Permittee may change the SWMP during the life of the Permit in accordance with the following procedures:
 - 4.4.2.1. Changes adding (but not subtracting or replacing) components, controls, or requirements to the SWMP may be made at any time upon written notification to the Division.
 - 4.4.2.2. Changes replacing an ineffective or unfeasible BMP specifically identified in the SWMP with an alternate BMP may be adopted at any time, provided the analysis is clearly outlined and subsequently approved by the Division. An analysis shall include:
 - 4.4.2.2.1 An explanation of why the BMP is ineffective or infeasible,
 - 4.4.2.2.2 Expectations or report on the effectiveness of the replacement BMP, and
 - 4.4.2.2.3 An analysis of why the replacement BMP is expected to achieve the goals of the BMP to be replaced, or has achieved those goals.
 - 4.4.3. Change requests or notifications must be made in writing and signed in accordance with Part 6.8.
 - 4.4.4. Change requests or notifications will receive confirmation and approval or denial in writing from the Division.

- 4.4.5. Storm Water Management Program Updates required by the Division: The Division may require changes to the SWMP as needed to:
 - 4.4.5.1. Address impacts on receiving water quality caused, or contributed to, by discharges from the MS4;
 - 4.4.5.2. Include more stringent requirements necessary to comply with new Federal regulatory requirements; or
 - 4.4.5.3. Include such other conditions deemed necessary by the Division to comply with the goals and requirements of the Clean Water Act.

5.0 Narrative Standard, Monitoring, Recordkeeping and Reporting

5.1. Narrative Standard

It shall be unlawful, and a violation of this Permit, for the Permittee to discharge or place any waste or other substance in such a way as will be or may become offensive such as unnatural deposits, floating debris, oil, scum or other nuisances such as color, odor or taste, or conditions which produce undesirable aquatic life or which produces objectionable tastes in edible aquatic organisms; or concentrations or combinations of substances which produce undesirable physiological responses in desirable resident fish, or other desirable aquatic life, or undesirable human health effects, as determined by bioassay or other tests performed in accordance with standard procedures

5.2. Analytical Monitoring

Permittees are not required to conduct analytical monitoring (see definition in Part 7.3) during the effective term of this Permit, with the following exceptions:

- 5.2.1. Water quality sampling may be required for compliance with TMDLs, pursuant to Part 3.1. of this Permit.
- 5.2.2. Sampling or testing may be required for characterizing illicit discharges pursuant to Parts 4.2.3.4 and 4.2.3.5. of this Permit.
- 5.2.3. Sampling or testing may be required for characterizing dry weather flow pursuant to Parts 4.2.3.3.2 and 5.3. of this Permit.
- 5.2.4. In the event that the MS4 elects to conduct analytical monitoring as part of its Storm Water Management Program, the Permittee is required to comply with Part 6.18. of this permit.

5.3. Non-analytical Monitoring

- 5.3.1. Non-analytical monitoring (see definition in Part 7.31.) such as visual dry weather screening is required to comply with Part 4.2.3.3.2 of this permit.

5.4. Record keeping

- 5.4.1. Permittees must keep all supplementary documents associated with this Permit (e.g., Storm Water Management Program (SWMP), SWMP Implementation Schedule) current and up to date to achieve the purpose and objectives of the required document.
- 5.4.2. All modifications to supplementary documents must be submitted to the *Division* in accordance with Parts 4.4 and 6.8.
- 5.4.3. The *Division* may at any time make a written determination that parts or all of the supplementary documents are not in compliance with this permit, wherein the Permittee must make modifications to these parts within 30days, or within a time frame specified by the *Division*.
- 5.4.4. The Permittee shall retain all required plans, records of all programs, records of all monitoring information, copies of all reports required by this Permit, and records of all other data required by or used to demonstrate compliance with this Permit, for at least five years. This period may be explicitly modified by alternative provisions of this Permit or extended by request of the *Division* at any time.
- 5.4.5. The Permittee must make records, including the Notice of Intent (NOI) and the description of the SWMP, available to the public if requested to do so in writing.

5.5. Reporting

- 5.5.1. The Permittee must submit an annual report to the Division by October 1 following each year of the Permit term.
- 5.5.2. The report must be submitted using the report form provided on the Division's website.
- 5.5.3. The Permittee shall sign and certify the annual report in accordance with Part 6.8.
- 5.5.4. Signed copies of the Annual Report and all other reports required herein, shall be submitted to:

Department of Environmental Quality
Division of Water Quality
PO Box 144870
288 North 1460 West
Salt Lake City, UT 84114-4870

6.0 Standard Permit Conditions

6.1. Duty to Comply

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application. The permittee shall give advance notice to the Division of any planned changes in the permitted facility or activity, which may result in noncompliance with permit requirements.

6.2. Penalties for Violations of Permit Conditions

The *Act* provides that any person who violates a permit condition implementing provisions of the *Act* is subject to a civil penalty not to exceed \$10,000 per day of such violation. Any person who willfully or negligently violates permit conditions or the *Act* is subject to a fine not exceeding \$25,000 per day of violation. Any person convicted under *UCA 19-5-115(2)* a second time shall be punished by a fine not exceeding \$50,000 per day.

6.3. Duty to Reapply

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee shall apply for and obtain a new permit. The application shall be submitted at least 180 days before the expiration date of this permit. Continuation of expiring Permits shall be governed by regulations promulgated at *UAC R317-8-5* and any subsequent amendments.

6.4. Need to Halt or Reduce Activity not a Defense

It shall not be a defense for a Permittee in an enforcement action that it would have been necessary to halt or reduce the Permitted activity in order to maintain compliance with the conditions of this Permit.

6.5. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit, which has a reasonable likelihood of adversely affecting human health or the environment. The permittee shall also take all reasonable steps to minimize or prevent any land application in violation of this permit.

6.6. Duty to Provide Information

The permittee shall furnish to the Division, within a time specified by the Division, any information which the Division may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Division, upon request, copies of records required to be kept by this permit.

6.7. Other Information

When the Permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or any report to the Division, it shall promptly submit such facts or information.

6.8. Signatory Requirements

All notices of intent, storm water management programs, storm water pollution prevention plans, reports, certifications or information either submitted to the *Division* or that this Permit requires to be maintained by the Permittee, shall be signed, dated and certified as follows:

- 6.8.1. All permit applications shall be signed by either a principal executive officer or ranking elected official.
- 6.8.2. All reports required by the permit and other information requested by the Division shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
 - 6.8.2.1. The authorization is made in writing by a person described above and submitted to the Division, and,
 - 6.8.2.2. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility, such as the position of plant manager, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters. A duly authorized representative may thus be either a named individual or any individual occupying a named position.
 - 6.8.2.3. Changes to authorization. If an authorization under *Part 6.8.2.* is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of *Part 6.8.2.* must be submitted to the Division prior to or together with any reports, information, or applications to be signed by an authorized representative.
- 6.8.3. *Certification.* Any person signing documents under this Part shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge

and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

6.9 Availability of Reports

Except for data determined to be confidential under the Government Records Access and Management Act (*see* particularly Utah Code Ann. § 63-2-309) and Utah Code Ann. § 19-1-3-6, all reports prepared in accordance with the terms of this Permit shall be available for public inspection at the office of the Division. As required by the *Act*, Permit applications, Permits and effluent data shall not be considered confidential.

6.10. Penalties for Falsification of Reports

The *Act* provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction be punished by a fine of not more than \$10,000.00 per violation, or by imprisonment for not more than six months per violation, or by both. Utah Code Ann. § 19-5-115(4)

6.11. Penalties for Tampering

The *Act* provides that any person who falsifies, tampers with, or knowingly renders inaccurate, any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than six months per violation, or by both.

6.12. Oil and Hazardous Substance Liability

Nothing in this Permit shall be construed to preclude the institution of any legal action or relieve the Permittee from any responsibilities, liabilities, or penalties to which the Permittee is or may be subject under the "*Act*".

6.13. Property Rights

The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state or local laws or regulations.

6.14. Severability

The provisions of this Permit are severable, and if any provision of this Permit, or the application of any provision of this Permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this Permit shall not be affected thereby.

6.15. Requiring a Different Permit

The *Division* may require the Permittee authorized by this Permit to obtain an individual *UPDES* permit. Any interested person may petition the *Division* to take action

under this paragraph. The *Division* may require the Permittee authorized to discharge under this Permit to apply for an individual *UPDES* Permit only if the Permittee has been notified in writing that a Permit application is required. This notice shall include a brief statement of the reasons for this decision, an application form (as necessary), a statement setting a deadline for the Permittee to file the application, and a statement that on the effective date of the municipal *UPDES* Permit, coverage under this Permit shall automatically terminate. Permit applications shall be submitted to the address of the *Division of Water Quality* shown in *Part 5.5.* of this Permit. The *Division* may grant additional time to submit the application upon request of the applicant. If the municipality fails to submit in a timely manner a municipal *UPDES* Permit application as required by the *Division*, then the applicability of this Permit to the Permittee is automatically terminated at the end of the day specified for application submittal.

6.16. State/Federal Laws

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation under authority preserved by *UCA 19-5-117* and *Section 510* of the *Act* or any applicable Federal or State transportation regulations, such as but not limited to the Department of Transportation regulations.

6.17. Proper Operation and Maintenance

The Permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Permittee to achieve compliance with the conditions of this Permit and with the requirements of the SWMP. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. Proper operation and maintenance requires the operation of backup or auxiliary facilities or similar systems, installed by the Permittee only when necessary to achieve compliance with the conditions of the Permit.

6.18. Monitoring and Records

- 6.18.1. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
- 6.18.2. The Permittee shall retain records of all monitoring information including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of the reports required by this Permit, and records of all data used to complete the application for this Permit, for a period of at least five years from the date of the sample, measurement, report or application. This period may be extended by request of the *Division* at any time.
- 6.18.3. Records of monitoring information shall include:
 - 6.18.3.1 The date, exact place, and time of sampling or measurements;

- 6.18.3.2 The name(s) of the individual(s) who performed the sampling or measurements;
- 6.18.3.3 The date(s) and time(s) analyses were performed;
- 6.18.3.4 The name(s) of the individual(s) who performed the analyses;
- 6.18.3.5 The analytical techniques or methods used; and
- 6.18.3.6 The results of such analyses.

6.19. Monitoring Procedures

Monitoring must be conducted according to test procedures approved under *Utah Administrative Code ("UAC") R317-2-10 and 40CFR Part 503*, unless other test procedures have been specified in this permit.

6.20. Inspection and Entry

The Permittee shall allow the *Division* or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

- 6.20.1. Enter upon the Permittee's premises where a regulated facility or activity is located or conducted or where records must be kept under the conditions of this Permit;
- 6.20.2. Have access to and copy at reasonable times, any records that must be kept under the conditions of this Permit; and
- 6.20.3. Inspect at reasonable times any facilities or equipment (including monitoring and control equipment).
- 6.20.4. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by law, any substances or parameters at any location.

6.21. Permit Actions

This Permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the Permittee for a Permit modification, revocation and re-issuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any Permit condition.

6.22. Storm Water-Reopener Provision.

At any time during the duration (life) of this permit, this permit may be reopened and modified (following proper administrative procedures) as per *UAC R317.8*, to include, any applicable storm water provisions and requirements, a storm water pollution prevention plan, a compliance schedule, a compliance date, monitoring and/or reporting requirements, or any other conditions related to the control of storm water discharges to "Waters-of-State".

7.0 Definitions

Definitions related to this Permit and small municipal separate storm sewers (MS4s).

- 7.1.** “40 CFR” refers to Title 40 of the Code of Federal Regulations, which is the codification of the general and permanent rules published in the Federal Register by the executive departments and agencies of the federal government.
- 7.2.** “Act” means the *Utah Water Quality Act*.
- 7.3.** “Analytical monitoring” refers to monitoring of waterbodies (streams, ponds, lakes, etc.) or of storm water, according to UAC R317-2-10 and 40 CFR 136 “Guidelines Establishing Test Procedures for the Analysis of Pollutants,” or to state- or federally established protocols for biomonitoring or stream bioassessments.
- 7.4.** “Beneficial Uses” means uses of the waters of the State, which include but are not limited to: domestic, agricultural, industrial, recreational, and other legitimate beneficial uses.
- 7.5.** “Best Management Practices” (BMPs) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State. BMPs also include treatment requirements, operating procedures, and practices to control facility site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.
- 7.6.** “CWA” means *The Clean Water Act of 1987*, formerly referred to as the Federal Water Pollution Control Act.
- 7.7.** “Co-Permittee” means any operator of a regulated Small MS4 that is applying jointly with another applicant for coverage under this Permit. A Co-Permittee owns or operates a regulated Small MS4 located within or adjacent to another regulated MS4. A Co-Permittee is only responsible for complying with the conditions of this Permit relating to discharges from the MS4 the Co-Permittee owns or operates. See also 40 CFR 122.26(b)(1)
- 7.8.** “Control Measure” refers to any Best Management Practice or other method used to prevent or reduce the discharge of pollutants to waters of the State.
- 7.9.** “Common plan of development or sale” means one plan for development or sale, separate parts of which are related by any announcement, piece of documentation (including a sign, public notice or hearing, sales pitch, advertisement, drawing, plat, blueprint, contract, permit application, zoning request, computer design, etc.), physical demarcation (including contracts) that identify the scope of the project. A plan may still be a common plan of development or sale even if it is taking place in separate stages or phases, is planned in combination with other construction activities, or is implemented by different owners or operators.
- 7.10.** “Director” means the director of the Utah Division of Water Quality, otherwise known as the Executive Secretary of the Utah Water Quality Board.
- 7.11.** “Division” means the Utah Division of Water Quality.

- 7.12.** "Discharge" for the purpose of this Permit, unless indicated otherwise, refers to discharges from the Municipal Separate Storm Sewer System (MS4).
- 7.13.** "Dry weather screening" is monitoring done in the absence of storm events to discharges representing, as much as possible, the entire storm drainage system for the purpose of obtaining information about illicit connections and improper dumping.
- 7.14.** "Escalating enforcement procedures" refers to a variety of enforcement actions in order to apply as necessary for the severity of the violation and/or the recalcitrance of the violator.
- 7.15.** "Entity" means a governmental body or a public or private organization.
- 7.16.** "EPA" means the United States Environmental Protection Agency.
- 7.17.** "General permit" means a permit which covers multiple dischargers of a point source category within a designated geographical area, in lieu of individual permits being issued to each discharger.
- 7.18.** "Ground water" means water in a saturated zone or stratum beneath the surface of the land or below a surface water body.
- 7.19.** "Illicit connection" means any man-made conveyance connecting an illicit discharge directly to a municipal separate storm sewer.
- 7.20.** "Illicit discharge" means any discharge to a municipal separate storm sewer that is not composed entirely of storm water except discharges pursuant to a UPDES Permit (other than the UPDES Permit for discharges from the municipal separate storm sewer) and discharges resulting from fire fighting activities.
- 7.21.** "Impaired waters" means any segment of surface waters that has been identified by the Division as failing to support classified uses. The Division periodically compiles a list of such waters known as the 303 (d) List.
- 7.22.** "Indian Country" is defined as in 40 CFR §122.2 to mean:
- 7.22.1.** All land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation;
 - 7.22.2.** All dependent Indian communities within the borders of the United States whether within the originally or subsequently acquired territory thereof, and whether within or without the limits of a state; and
 - 7.22.3.** All Indian allotments, the Indian titles to which have not been extinguished, including right-of-ways running through the same.

- 7.23.** “Large MS4” *Large municipal separate storm sewer system* means all municipal separate storm sewers that are located in an incorporated place with a population of 250,000 or more as determined by the current Decennial Census by the Bureau of the Census.
- 7.24.** “Low Impact Development” (LID) is an approach to land development (or re-development) that works with nature to more closely mimic pre-development hydrologic functions. LID employs principles such as preserving and recreating natural landscape features, minimizing effective imperviousness to create functional and appealing site drainage that treat storm water as a resource rather than a waste product. There are many practices that have been used to adhere to these principles such as bioretention facilities, rain gardens, vegetated rooftops, rain barrels, and permeable pavements.
- 7.25.** “MS4” is an acronym for “municipal separate storm sewer system”.
- 7.26.** “Maximum Extent Practicable” (MEP) is the technology-based discharge standard for Municipal Separate Storm Sewer Systems established by paragraph 402(p)(3)(B)(iii) of the federal Clean Water Act (CWA), which reads as follows: “Permits for discharges from municipal storm sewers shall require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques, and system, design, and engineering methods, and other such provisions as the Administrator or the State determines appropriate for the control of such pollutants.”
- 7.27.** “Medium MS4” *Medium municipal separate storm sewer system* means all municipal separate storm sewers that are located in an incorporated place with a population of 100,000 or more but less than 250,000, as determined by the 1990 Decennial Census by the Bureau of the Census
- 7.28.** “Monitoring” refers to tracking or measuring activities, progress, results, etc.;
- 7.29.** “Municipal separate storm sewer system” means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) pursuant to paragraphs R317-8-1.6(4), (7), & (14), or designated under UAC R317-8-3.9(1)(a)5:
- 7.29.1. that is owned or operated by a state, city, town, county, district, association, or other public body (created by or pursuant to State Law) having jurisdiction over disposal of wastes, storm water, or other wastes, including special districts under State Law such as a sewer district, flood control district or drainage district, or similar entity, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the state;
 - 7.29.2. that is designed or used for collecting or conveying storm water;
 - 7.29.3. which is not a combined sewer; and
 - 7.29.4. which is not part of a Publicly Owned Treatment Works (POTW) as defined in 40 CFR 122.2.
- 7.30.** “NOI” is an acronym for “Notice of Intent” to be covered by this Permit and is the mechanism used to “register” for coverage under a general Permit.

- 7.31.** “Non-analytical monitoring” refers to monitoring for pollutants by means other than UAC R317-2-10 and 40 CFR 136, such as visually or by qualitative tools that provide comparative or rough estimates.
- 7.32.** “Operator” is the person or entity responsible for the operation and maintenance of the MS4.
- 7.33.** "Outfall" means a point source as defined by UAC R317-8-1.5(34) at the point where a municipal separate storm sewer discharges to waters of the State and does not include open conveyances connecting two municipal separate storm sewers, or pipes, tunnels or other conveyances which connect segments of the same stream or other waters of the State and are used to convey waters of the State.
- 7.34.** “Phase II areas” means areas regulated under UPDES storm water regulations encompassed by Small MS4's (see definition 7.39.).
- 7.35.** “Redevelopment” is the replacement or improvement of impervious surfaces on a developed site.
- 7.36.** “Runoff” is water that travels across the land surface, or laterally through the ground near the land surface, and discharges to water bodies either directly or through a collection and conveyance system. Runoff includes storm water and water from other sources that travels across the land surface.
- 7.37.** “SWMP” is an acronym for storm water management program.
- 7.38.** “SWPPP” is an acronym for storm water pollution prevention plan.
- 7.39.** “Small municipal separate storm sewer system” is any MS4 not already covered by the Phase I program as a medium or large MS4. The Phase II Rule automatically covers on a nationwide basis all Small MS4s located in “urbanized areas” (UAs) as defined by the Bureau of the Census (unless waived by the UPDES permitting authority), and on a case-by-case basis those Small MS4s located outside of UAs that the UPDES permitting authority designates.
- 7.39.1.** This term includes systems similar to separate storm sewer systems in municipalities, such as systems at military bases, large hospital or prison complexes, and highways and other thoroughfares. The term does not include separate storm sewers in very discrete areas, such as individual buildings.
- 7.40.** "Storm water" means storm water runoff, snowmelt runoff, and surface runoff and drainage.
- 7.41.** “Storm water management program” means a set of measurable goals, actions, and activities designed to reduce the discharge of pollutants from the Small MS4 to the maximum extent practicable and to protect water quality.
- 7.42.** “TMDL” is an acronym for “Total Maximum Daily Load” and in this permit refers to a study that: 1) quantifies the amount of a pollutant in a stream; 2) identifies the sources of

the pollutant; and 3) recommends regulatory or other actions that may need to be taken in order for the stream to meet water quality standards.

- 7.43.** “Urbanized area” is a land area comprising one or more places and the adjacent densely settled surrounding area that together have a residential population of at least 50,000 and an overall population density of at least 1,000 people per square mile.
- 7.44.** “Waters of the State” means all streams, lakes, ponds, marshes, water-courses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private which are contained within, flow through, or border upon this state or any portion thereof, except bodies of water confined to and retained within the limits of private property, and which do not develop into or constitute a nuisance, or a public health hazard, or a menace to fish and wildlife which shall not be considered to be “Waters of the State” under this definition (“UAC” R317-1-1.32).

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